1

2

3

4

5

6

7

8   IN THE UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

10   MARVELLOUS A.X. GREENE,

11   Plaintiff,   No. 2:05-cv-0330 GEB JFM (PC)

12   vs.

13   C.D.C., et al.,   ORDER

14

15   Defendants.

16   _____/

17   Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil

18   rights complaint pursuant to 42 U.S.C. § 1983. On December 23, 2008, plaintiff filed a request

19   for the court to issue writs requiring the California Department of Corrections to bring certain

20   incarcerated witnesses to testify at trial herein. However, plaintiff has failed to file a motion for

21   the attendance of these witnesses as required by the court's prior scheduling order. (March 17,

22   2008 Scheduling Order at 2-4.) Plaintiff has not advised the court whether these incarcerated

23   witnesses have agreed to testify voluntarily, nor has plaintiff provided an affidavit demonstrating

24   that each witness had testimony to give. If plaintiff cannot provide the witness' own affidavit as

25   to his or her testimony, plaintiff must provide specific information that the witness has personal

26   knowledge about what the incident was, when and where it occurred, who was present, and how

1

1   the prospective witness happened to be in a position to see or to hear what occurred at the time it

2   occurred. (Id.)

3   By separate order, the court has vacated pretrial dates and the trial date until the

4   pending motion for summary judgment has been decided. Accordingly, plaintiff's request will be

5   denied without prejudice to its renewal with the filing of his pretrial statement. Once the court

6   has ruled on the motion for summary judgment, if appropriate, plaintiff will be advised of the

7   new deadline by which he must file his pretrial statement. Plaintiff should not file his pretrial

8   statement or motion for witnesses until after the motion for summary judgment is resolved.

9   Accordingly, IT IS HEREBY ORDERED that plaintiff's December 23, 2008

10 request (#73) is denied without prejudice.

11 DATED: February 5, 2009.

12

13   UNITED STATES MAGISTRATE JUDGE

14

15 001; gree0330.wit

16

17

18

19

20

21

22

23

24

25

26